

## 1 UNITED STATES DISTRICT COURT

## 2 DISTRICT OF NEVADA

3 BEAU BROWN,

4 v.

Plaintiff,

5 STATE OF NEVADA,

6 Defendant.

Case No. 3:23-cv-00495-ART-CSD

## 7 ORDER

9 Plaintiff Beau Brown filed this civil rights suit in October 2023. (ECF No.  
10 1). Plaintiff's first filing includes a brief challenging the constitutionality of  
11 Nevada's Youthful Offender Parole statutes (NRS 176.017, 176.025, and  
12 213.12135) under 28 U.S.C. § 2403(b) and Federal Rule of Civil Procedure 5.1.  
13 (ECF Nos. 1-2, 5, 6.)

14 A prisoner who challenges the constitutionality of their sentence in federal  
15 court must file for habeas relief under 22 U.S.C. § 2255. A prisoner seeking  
16 money damages or injunctive relief against a state typically sues under 42 U.S.C.  
17 § 1983. 28 U.S.C. § 2403(b) governs the certification of state-law questions to  
18 state attorneys general. It does not provide an independent right of action.

19 The Court instructed Plaintiff to file a notice indicating whether he seeks  
20 relief under habeas or section 1983. (ECF No. 4.) Plaintiff filed a notice indicating  
21 he intended to file a motion under 28 U.S.C. § 2403(b) and Fed. R. Civ. P. 5.1.  
22 (ECF Nos. 5, 6.) On April 9, 2024, the Court explained that 28 U.S.C. § 2403(b)  
23 and Federal Rule of Civil Procedure 5.1 do not provide a cause of action or basis  
24 of relief and provided Plaintiff 30 days to tell the Court whether he seeks to file a  
25 habeas petition or civil rights action and to file the corresponding *in forma*  
26 *pauperis* (IFP) application. (ECF No. 8.) Plaintiff has not filed anything for over  
27 thirty days.

28

The Court accordingly dismisses Plaintiff's claim without prejudice for failure to respond to an order and failure to prosecute. Fed. R. Civ. Pro. 41(b).

The Clerk of Court is directed to enter judgment accordingly and close this case. No other documents may be filed in this now-closed case. If Plaintiff wishes to pursue his claims, he must file a complaint and IFP application indicating the cause of action under which he wishes to sue.

Dated this 7th day of November 2024.

ANNE R. TRAUM  
UNITED STATES DISTRICT JUDGE